

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID ALOANSO ZUNIGA,

Defendant.

CR 20–115–BLG–DLC

ORDER

Less than an hour before the sentencing hearing in this matter, the government files its Unopposed Motion and Brief for Issuance of a Preliminary Order of Forfeiture. (Doc. 39.) The Court is underwhelmed by the government’s timing. The eleventh-hour nature of the motion strips the Court the opportunity to “enter the preliminary order sufficiently in advance of sentencing to allow the parties to suggest revisions or modifications before the order becomes final[.]” Fed. R. Crim. P. 32.2(b)(2)(B).

However, under the circumstances, and because the motion is unopposed, the Court will grant the motion. The Court cautions the government, though, that its messy practices as related to forfeiture have the Court’s full attention going forward.

With that said, the Court FINDS:

(1) The United States sought forfeiture of any property of the above-captioned person, pursuant to 18 U.S.C. § 924(d), as property used or intended to be used to facilitate the violations alleged in the indictment, or as proceeds of said violation. (Doc. 1.)

(2) On November 24, 2020, the defendant entered a plea of guilty to Count IV of the indictment, which charged him with possession of a stolen firearm. (*see* Doc. 30.)

(3) The Indictment contained a forfeiture allegation that stated that as a result of the offenses charged in the indictment, the defendant shall forfeit any firearm used and involved in a knowing violation of the charged offense. (Doc. 1 at 3.)

(4) By virtue of Defendant David Aloanso Zuniga's guilty plea, the United States is now entitled to possession of the property, pursuant to 18 U.S.C. § 924(d), and Rule 32.2(b)(2), Federal Rules of Criminal Procedure.

ACCORDINGLY, IT IS ORDERED that:

(1) The motion (Doc. 39) is GRANTED.

(2) Based upon the plea of guilty by Zuniga to Count IV of the Indictment, the United States is authorized and ordered to seize the property following property:

- 16 rounds of .45 ACP ammunition;
- 10 rounds of .40 S&W ammunition; and
- 10 rounds of CCI .22 caliber ammunition.

This property is forfeited to the United States for disposition in accordance with the law, subject to the provisions of 18 U.S.C. § 924(d).

(3) The foregoing forfeited property is to be held by the United States in its secure custody and control.

(4) Pursuant to 21 U.S.C. § 853(n)(1), the United States shall publish at least once for three successive weeks in a suitable means of general circulation notice of this order, notice of the United States' intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than Zuniga, having or claiming a legal interest in the above-listed forfeited property must file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. This notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's

right, title, or interest in the forfeited property and any additional facts supporting the petitioner's claim and the relief sought.

The United States may also, to the extent practical, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the preliminary order of forfeiture, as a substitute for published notice as to those persons so notified.

(5) Upon adjudication of all third-party interests, this Court will enter a final order of forfeiture, pursuant to 21 U.S.C. § 853(n).

DATED this 17th day of March, 2021.



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Dana L. Christensen, District Judge  
United States District Court